

# Exhibit 7

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 10-141-CMKF

4  
5 MARVEL WORLDWIDE, INC.,  
6 MARVEL CHARACTERS, INC., and  
7 MVL RIGHTS, LLC,  
8 Plaintiffs,  
9 VS.

10 LISA R. KIRBY, BARBARA J. KIRBY,  
11 NEAL L. KIRBY and SUSAN N. KIRBY,  
12 Defendants.

13  
14  
15 Volume II  
16 Videotape Deposition of:  
17 Roy Thomas  
18 Wednesday, October 27, 2010  
19 Orangeburg, South Carolina  
20  
21  
22  
23  
24  
25

1 APPEARANCES:

2 FOR THE PLAINTIFFS:

3 MARVEL WORLDWIDE, INC., MARVEL CHARACTERS,

4 IN.C, and MVL RIGHTS, LLC

5 BY: JODI AILEEN KLEINICK

6 PAUL HASTINGS JANOFSKY & WALKER

7 75 East 55 Street

8 New York, NY 10022

9  
10 -AND-

11  
12  
13 ELI BARD

14 VICE PRESIDENT, DEPUTY GENERAL COUNSEL

15 MARVEL ENTERTAINMENT, INC.

16 417 Fifth Avenue

17 New York, NY 10016

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22  
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24  
25 (Appearances continued:)

1 FOR THE DEFENDANTS:

2 LISA R. KIRBY, BARBARA J. KIRBY,

3 NEAL L. KIRBY and SUSAN N. KIRBY

4 BY: MARC TOBEROFF

5 TOBEROFF & ASSOCIATES

6 2049 Century Park East

7 Suite 2720

8 Los Angeles, CA 90067

1 Thomas

2 would sit around and talk the story over,  
3 occasionally, maybe over lunch.

4 So it was done both ways.

5 Q. And did that -- if there was an  
6 artist that had a longer relationship with  
7 Marvel, or was more advanced in his craft, did  
8 that change with respect to those artists?

9 A. (No response.)

10 MS. KLEINICK: Objection.

11 A. Well, I don't think that Stan gave  
12 written plots to too many artists.

13 By the time I was -- by the time I  
14 came to work there, I think he mostly talked  
15 over the phone.

16 Although I'm sure there were cases  
17 where he did write out something.

18 Q. What cases are you aware of, where  
19 he wrote out something?

20 A. I had this feeling he may have done  
21 it for a couple of new artists when they came  
22 into the field, maybe for their first story.

23 I'm not sure. He wouldn't have sent  
24 them through me. He probably won't have put  
25 them in any form.

1 Thomas

2 I don't recall seeing any. I just  
3 have this foggy notion that there may have been  
4 some.

5 But if so, it's probably relatively  
6 rare at that stage.

7 And, of course, with the case of  
8 Steve Ditko, on the two strips that Ditko did  
9 at that time, the men were not speaking to each  
10 other.

11 So the plotting was all -- in that  
12 case, the plotting was all done and  
13 acknowledged to be by Ditko.

14 Q. And how did Ditko do the plotting?

15 MS. KLEINICK: Objection; calls for  
16 speculation, no foundation.

17 A. Based on the stories I saw,  
18 including the two I dialogue, did not have any  
19 hand in plotting, he would draw a rough version  
20 of the pencils -- because by then he was inking  
21 everything --

22 COURT REPORTER: Because by then he  
23 was --

24 A. -- doing very rough versions of the  
25 pencils, because by then he was inking

1                                Thomas  
2        everything that he penciled.

3                                And he would turn that in to the  
4        office.

5                                And as I discovered years ago by  
6        looking over things I had left around, he would  
7        take a piece of typing paper, draw panels on  
8        it, and write maybe one or two or three words  
9        in a panel to indicate what he was doing, as  
10       opposed to doing the margin notes that I  
11       think -- I don't know if he always worked that  
12       way with Stan.

13                               I never paid much attention. I  
14       don't know if Stan got those little typed  
15       sheets, or if it was written on the original  
16       art, or whatever.

17                               I very rarely looked at Ditko's  
18       pencils. They would go directly to Stan, and  
19       he would write them, and I wouldn't really see  
20       those, because they were so rough.

21                Q.        You used the term "scripting a comic  
22       book" yesterday, I believe, is that -- is  
23       that -- does that mean the same thing as  
24       writing a comic book?

25                A.        Generally speaking, it does.

1 Thomas

2 A. Jerry is Jerry Bails -- that I  
3 mentioned before.

4 Q. Now, attached to this letter is a  
5 plot that -- a comic that Steve Ditko did for  
6 Dr. Strange, correct?

7 A. To me, they were the equivalent as  
8 border notes. They reflect the plot, I  
9 suppose, but I wouldn't -- I wouldn't call them  
10 a plot.

11 They are just the closest thing to a  
12 written plot there was.

13 But it was written by Ditko; yes,  
14 except for my notation at the top to identify  
15 it to Jerry.

16 Q. What do you mean -- you wouldn't  
17 identify it as a plot?

18 What are you referring to  
19 specifically?

20 A. Well, the fact that these are the  
21 equivalent of the margin notes that other  
22 artists did write on the page.

23 But Ditko preferred to put them --  
24 instead of writing them in the boarder of the  
25 page -- when he turned in artwork for someone

1 Thomas

2 else to dialogue, he preferred to put it on a  
3 separate sheet of paper and lay out the  
4 typewriter paper as if it were a page and put a  
5 couple of words in each box.

6 So these are the equivalent of the  
7 margin notes. So we have called them that.

8 Q. So when you turn to, for example,  
9 Bates 2624 --

10 A. Uh-huh.

11 Q. -- is Ditko plotting the story with  
12 these notes?

13 A. No. By this time, he's plotted the  
14 story -- well, actually, I wouldn't know.

15 I assumed that he had drawn the  
16 story with the plot in his mind and then wrote  
17 these notes later.

18 But he could have written the notes  
19 first for himself -- and it would be the  
20 plot -- but I didn't -- I have no way of  
21 knowing that.

22 Q. And --

23 A. When they were written -- I don't  
24 know if they were written before or after the  
25 story was penciled.

1 Thomas

2 Q. And you worked on this Dr. Strange  
3 comic book?

4 A. I dialogued it after he turned in  
5 the roughly-penciled artwork.

6 Q. And you had not been at Marvel very  
7 long when you worked on this?

8 A. About three or four months.

9 Q. Again, looking at 2624, do you  
10 recognize the handwriting on that page?

11 A. No. For a number of years I had  
12 forgotten that it even -- that this existed or  
13 that Steve had even given me notes this way,  
14 until Jerry Bails died and his widow sent me a  
15 number of papers a few years ago.

16 Q. Do you believe this is Steve Ditko's  
17 handwriting?

18 A. Yes, I do. But only because who  
19 else would have written it?

20 Q. Were you working at Marvel when they  
21 instituted a policy of returning artwork to  
22 artists?

23 A. Yes.

24 Q. What year did that start?

25 MS. KLEINICK: Objection; asked and

1 Thomas

2 A. Well, Stan was -- long before I had  
3 gotten there, I hadn't heard the story -- that  
4 he was just a very -- when he wanted to inspire  
5 an artist, he would become very energetic.

6 He was known to hop up on a chair  
7 or, at the very least, he paced around the  
8 room, waved his arms or whatever.

9 And he was just trying to -- you  
10 know, in addition to the serious points he was  
11 trying to make, he was trying to fill an artist  
12 with a kind of enthusiasm.

13 He wanted people to really want to  
14 do the work and would really throw themselves  
15 into it, as opposed to just say: Well, here is  
16 a job, and I'm delivering it.

17 He wanted them to feel they were,  
18 you know, kind of part of the team.

19 Q. When Marvel was taken over by larger  
20 companies, I remember the name Cadence -- I  
21 don't remember the first -- what was the first  
22 company that bought Marvel?

23 A. I believe the name at the time was  
24 Perfect Film -- or Perfect Film and Chemical,  
25 which sort of became or merged with or bought

1 Thomas

2 by, became Cadence shortly, I don't know the  
3 process.

4 Q. When Marvel was taken over by a  
5 larger company, did you notice a difference in  
6 the culture at Marvel?

7 MS. KLEINICK: Objection.

8 A. Very little. We -- it's hard to  
9 remember now.

10 I believe we became aware of the  
11 fact that we were now -- sort of that there was  
12 somebody else kind of looking over our  
13 shoulder, but nobody actually came by very  
14 often -- one or two executives came up to,  
15 perhaps, to see the place, but there really  
16 wasn't much change in our workday; just that we  
17 were aware that somebody else besides Mark  
18 Goodman now was paying attention to whether  
19 there was a profit and so forth.

20 And it makes you a little  
21 apprehensive, I suppose, but there wasn't a lot  
22 of day-to-day change.

23 Q. Did you have much involvement as to  
24 what was going on on the legal side of Marvel?

25 A. No.

1 Thomas

2 A. Well-known to me would be no  
3 different from say the general public.

4 To me, they were all well-known,  
5 when I went in there. Dick Ayers and Don Heck,  
6 who were the other two pencillers there at the  
7 time, and the people that came in a little  
8 later, John Meade and others, and Bill Everett,  
9 they were all known to me, because I was a fan  
10 of comic history.

11 Q. Did you ever furnish Steve Ditko  
12 with a synopsis before he started?

13 A. Not at Marvel.

14 Q. Did you furnish Jack Kirby with a  
15 synopsis before he started working?

16 A. Only the -- in the case of that What  
17 If issue, I told Jack in a -- I don't know if  
18 it was written or verbal -- I told him the  
19 general kind of story I was looking for at that  
20 point.

21 I do not remember much about the  
22 detail or whether I wrote anything out.

23 That's the only occasion where I  
24 would have given anything to Jack in regard to  
25 a story.